

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ALBERT EDMOND,

PETITIONER

v.

No. 4:06CV197-P-B

LAWRENCE KELLY, ET AL.

RESPONDENTS

**ORDER FINDING PETITIONER'S NOTICE OF APPEAL
TIMELY FILED**

This matter comes before the court on remand from the Fifth Circuit Court of Appeals to determine whether the petitioner's notice of appeal was filed on or before December 10, 2007. The petitioner dated his notice appeal December 7, 2007, and it was filed in this court on December 14, 2007. Under the prisoner mailbox rule, a prisoner's *pro se* notice of appeal is deemed filed when he delivers it to the prison mail system for forwarding to the court. *Houston v. Lack*, 487 U.S. 266, 270 (1988); *Causey v. Cain*, 450 F.3d 601, 604 (5th Cir. 2006). The prison mail log records the date the notice of appeal was sent to the court as December 11, 2007.¹ The court notes from long experience that there is frequently a delay of several days between the time the prisoner turns his mail over to a prison official and when the mail is logged into the system. Thus, giving the petitioner the benefit of the doubt, the court finds that the instant notice of appeal was timely filed on or before December 10, 2007, and was thus timely filed.

SO ORDERED, this the 2nd day of May, 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE

¹The mail log is attached to the instant order for inclusion in the record.